

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DARRYL MCGORE,
#142739,

Plaintiff,

Civil Action No. 19-CV-11207

vs.

HON. BERNARD A. FRIEDMAN

MICHAEL DUGGAN and
KENNETH SHENK,

Defendants.

ORDER OF DISMISSAL

Plaintiff Darryl McGore is a Michigan prisoner who filed a pro se civil rights complaint on April 25, 2019. On May 20, 2019, Magistrate Judge R. Steven Whalen issued an order of deficiency informing plaintiff that if he wishes to proceed in forma pauperis, i.e., without prepayment of the filing fee,

within **30 days** from the date of this notice, he or she must submit the \$350.00 filing fee with the additional \$50.00 administrative fee (\$400.00 total) or, alternatively, file the required Prisoner's Application to Proceed Without Prepayment of Fees and Costs and Authorization to Withdraw from the Trust Fund Account, a current Certification/Business Manager's Account Statement, and a statement of Trust Fund Account (or institutional equivalent) for the six-month period immediately preceding the filing of the complaint. *McGore*, 114 F.3d at 605. Should Plaintiff fail to pay the filing fee and the administrative fee, or fail to file the required documents as described, the Court must presume that he is not proceeding without prepayment of the fee, assess the entire fee, and order the case dismissed for want of prosecution. *Id.* If Plaintiff's action is dismissed under such circumstances, it will not be reinstated even if he or she subsequently pays the fee. *Id.*

To date, plaintiff has neither paid the applicable fees nor filed the required documents.

The Sixth Circuit has explained that

[u]nder the Prison Litigation Reform Act (“PLRA”), a prisoner may bring a civil action in forma pauperis if he files an affidavit of indigency and a certified copy of the trust fund account statement for the six-month period immediately preceding the filing of the complaint. *See* 28 U.S.C.A. § 1915(a). If the inmate does not pay the full filing fee and fails to provide the required documents, the district court must notify the prisoner of the deficiency and grant him thirty days to correct it or pay the full fee. *See McGore v. Wigglesworth*, 114 F.3d 601, 605 (6th Cir. 1997). If the prisoner does not comply, the district court must presume that the prisoner is not a pauper, assess the inmate the full fee, and order the case dismissed for want of prosecution. *Id.*

Davis v. United States, 73 F. App’x 804, 805 (6th Cir. 2003).

As noted above, plaintiff has neither paid the filing fee nor applied to proceed in forma pauperis. The Court has notified plaintiff of the deficiency and has given him thirty days to cure it. Because this time has elapsed and plaintiff has not complied with the Court’s order, the Court shall dismiss the complaint without prejudice. *See Erby v. Kula*, 113 F. App’x 74 (6th Cir. 2004); *Davis*, 73 F. App’x at 805. Accordingly,

IT IS ORDERED that plaintiff’s complaint is dismissed without prejudice for plaintiff’s failure to comply with the Court’s order.

Dated: July 8, 2019
Detroit, Michigan

s/Bernard A. Friedman
BERNARD A. FRIEDMAN
SENIOR U.S. DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first-class U.S. mail on July 8, 2019.

Darryl McGor #142739
Baraga Maximum Correctional Facility
13924 Wadaga Rd
Baraga, MI 49908-9204

s/Johnetta M. Curry-Williams
Case Manager